



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)	
)	
MEDPATI REDDY,)	
)	
Complainant,)	Charge No. 2003CF0924
)	ALS No. 04-261
)	
AND)	
)	
ABN AMRO NORTH AMERICA,)	
)	
Respondent.)	

RECOMMENDED ORDER AND DECISION

On July 1st, 2004, Complainant Reddy filed a complaint on his own behalf with the Illinois Human Rights Commission. In that complaint, Reddy alleges that his former employer, Respondent ABN AMRO North America (ABN AMRO), retaliated against him by terminating him shortly after he complained to management that he was being harassed due to his national origin.

This matter is presently before this tribunal on Respondent's *Motion to Dismiss the Complaint of Civil Rights Violation* and Complainant's response thereto. Respondent has also filed a *Reply Brief in Support of Its Motion to Dismiss the Complaint of Civil Rights Violation*. Respondent contends that Complainant's complaint should be dismissed due to the Commission's lack of jurisdiction over the matter. After review of the pleadings and exhibits submitted by the parties, as well as the remaining portion of the record file, it is clear that Respondent's motion should be granted.

FINDINGS OF FACT

1. Complainant filed Charge No. 2003CF0924 with the Illinois Department of Human Rights (the Department) on October 1st, 2002.

2. On October 18th, 2002, the Department sent by certified mail a letter to Complainant informing him of his right to file his own complaint with the Illinois Human Rights Commission (the Commission) between October 1st, 2003 and November 1st, 2003 if the Department had not yet filed a complaint with the Commission or issued a notice of dismissal. The letter was not returned as undeliverable.
3. On August 31st, 2003, the Department sent a second letter by certified mail to Complainant informing him of his right to file his own complaint with the Commission between February 29th, 2004 and March 29th, 2004 if the Department had not yet filed a complaint with the Commission or issued a notice of dismissal. The letter was not returned as undeliverable.
4. On May 27th, 2004, the Department issued a *Notice of Dismissal for Lack of Substantial Evidence* dismissing Charge No. 2003CF0924. In addition, this notice informed Complainant that the filing deadline for a *Request for Review* with the Department's Chief Legal Counsel was July 1st, 2004. The notice was sent via U.S. Mail to Complainant and was not returned as undeliverable.
5. On July 1st, 2004, Complainant filed a *Complaint of Civil Rights Violation* with the Commission alleging that he was terminated from his job with Respondent in retaliation for opposing unlawful discrimination.
6. On July 7th, 2004, the Commission served Respondent by certified mail with a copy of the *Complaint of Civil Rights Violation*.

CONCLUSIONS OF LAW

1. The Commission lacks jurisdiction over the subject matter and the parties of this complaint.
2. Pursuant to 775 ILCS 5/7A-102(G)(2), Complainant Reddy's *Complaint of Civil Rights Violation* was not timely filed with the Commission.

DISCUSSION

775 ILCS 5/7A-102(G)(2) provides that “[b]etween 365 and 395 days after the charge is filed, or such longer period agreed to in writing by all parties, the aggrieved party may file a complaint with the Commission, *if the Director has not sooner issued a report and determination pursuant to paragraphs (D)(1) and (D)(2) of this Section.*” [emphasis added]. Specifically, paragraph (D)(2)(a) of that section provides that [i]f the Director [of the Department] determines that there is no substantial evidence, the charge shall be dismissed by order of the Director and the complainant notified that he or she may seek review of the dismissal order before the Chief Legal Counsel of the Department. The complainant shall have 30 days from the receipt of notice to file a request for review by the Chief Legal Counsel of the Department.”

In the matter at hand, the Department issued its *Notice of Dismissal for Lack of Substantial Evidence* on May 27th, 2004. That notice was mailed to Complainant Reddy *via* regular U.S. mail and there is no evidence in the record that it was returned as undeliverable. In the notice, Complainant was informed of his right to file a *Request for Review* with the Department's Chief Legal Counsel by July 1st, 2004. Instead of filing a *Request for Review*, Complainant took it upon himself to file a complaint with the Commission on July 1st, 2004. This was an error on Complainant's part. By filing a complaint at the Commission on July 1st, 2004, instead of filing a *Request for Review* at the Department, Complainant missed his

opportunity to appeal the Department's finding of *lack of substantial evidence* with regard to Charge No. 2003CF0924.

Additionally, the plain language of Illinois Human Rights Act, 775 ILCS 5/7A 102(G)(2), makes clear that a charging party's right to file his or her own complaint at the Commission is conditioned upon the Department not having yet issued its determination of substantial evidence or lack thereof with regard to a charge. In this case, the Department issued its *Notice of Dismissal for Lack of Substantial Evidence* on May 27th, 2004. Therefore, as of May 27th, 2004, it was improper procedure for Complainant to file his own complaint with the Commission. Once the Department issued its determination, Complainant simply lost his opportunity to do so.

RECOMMENDATION

Based upon the above findings of fact and conclusions of law, I recommend that the Illinois Human Rights Commission dismiss the complaint, together with underlying Charge No. 2003CF0924, with prejudice.

ENTERED: December 20, 2004

HUMAN RIGHTS COMMISSION

**MARIETTE LINDT
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION**